

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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DARREN KEENAN,

Plaintiff,

DECISION AND ORDER

06-CV-6045L

v.

THE TOWN OF GATES, THE TOWN OF  
GATES POLICE DEPARTMENT, and  
POLICE OFFICER SHELLEY A. CONRADT,

Defendants.

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Plaintiff, Darren Keenan (“Keenan”), sued the Town of Gates and one of its police officers for malicious prosecution in connection with a charge of aggravated harassment in the second degree (N.Y. Penal Law § 240.30) lodged against him based on a complaint, by Officer Shelley A. Conradt.

This Court referred the parties’ cross-motions for summary judgment to United States Magistrate Judge Marian W. Payson (Dkt. #65) pursuant to 28 U.S.C. § 636(b).

The Magistrate Judge reviewed the pleadings, entertained oral argument and issued a thorough Report and Recommendation (Dkt. #69). In that Report, the Magistrate Judge recommended that this Court grant defendants’ motion for summary judgment and dismiss the complaint and also deny plaintiff’s cross-motion for summary judgment. No objections have been filed and the time within which to do so has lapsed.

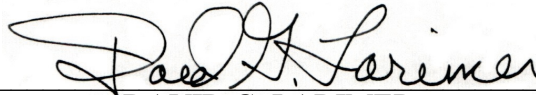
I have reviewed the Report and Recommendation and agree with the summary of facts, as well as the recitation concerning the law relative to probable cause for issuance of a criminal complaint charging harassment. I see no basis to modify, alter or reverse the recommendation of the Magistrate Judge and, therefore, I adopt it in all respects. I agree with the Magistrate Judge that based on the facts presented by the victims, Officer Conradt had probable cause to file the charge

of aggravated harassment. I also find that Keenan has failed to establish that the action taken was done so maliciously. Since probable cause existed, there is no basis to find that the action was commenced maliciously.

#### CONCLUSION

I accept and adopt in all respects the Report and Recommendation of United States Magistrate Judge Marian W. Payson (Dkt. #69). I grant the defendants' motion for summary judgment (Dkt. #51) and dismiss the complaint; I also deny plaintiff's cross-motion for summary judgment (Dkt. #55).

IT IS SO ORDERED.

A handwritten signature in black ink, reading "David G. Larimer", is written over a horizontal line.

DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
October 12, 2011.